

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

—
No. 6:23-cv-00322

—
Paul J. Connall,
Plaintiff,

v.

Senior Warden MTC-ISF,
Defendant.

—

O R D E R

Plaintiff Paul Connall, proceeding pro se, filed this civil-rights lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge John D. Love, who issued a report and recommendation (Doc. 7) concluding that plaintiff's complaint should be dismissed with prejudice for purposes of *in forma pauperis* proceedings pursuant to 28 U.S.C. § 1915(g). Plaintiff has not filed an objection to the report and recommendation, but has filed a notice of advisory to the court (Doc. 8), which the court will liberally construe as an objection.

The court reviews the objected-to portions of a report and recommendation de novo. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996). The court reviews all unobjected-to portions of the report and recommendation only for clear error or abuse of discretion. See *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989). Plaintiff's advisory does not address the court's report and recommendation, nor does it address the fact that plaintiff has accumulated three strikes under 28 U.S.C. § 1915(g). *Banos v. O'Guin*, 144 F.3d 883, 885 (5th Cir. 1998). Rather, plaintiff's notice of advisory lists several new allegations. Doc. 8. Those allegations fail to show how plaintiff faces an imminent threat of serious physical injury for which time is pressing. For that reason,

the court agrees that this lawsuit should be dismissed pursuant to 28 U.S.C. § 1915(g).

Having reviewed the magistrate judge's report and being satisfied that it contains no clear error, the court accepts its findings and recommendation. For the reasons stated in the report, plaintiff's complaint is dismissed with prejudice for purposes of *in forma pauperis* proceedings pursuant to 28 U.S.C. § 1915(g). Plaintiff may resume his lawsuit if he pays the entire filing fee of \$402 within fifteen days after the entry of the final judgment.

So ordered by the court on August 14, 2023.



J. CAMPBELL BARKER
United States District Judge